

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2546

By: Munson and Moore of the
House

and

Floyd of the Senate

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10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to sexual assault victims; creating
12 the Sexual Assault Victims' Right to Information Act;
13 defining terms; declaring rights of sexual assault
14 victims; declaring right to request to speak with
15 sexual assault victims' advocate; directing law
16 enforcement and district attorneys to allow for the
17 presence of a sexual assault victims' advocate during
18 interviews with victims; prohibiting use of forensic
19 evidence for certain purposes; directing law
20 enforcement and medical providers to provide certain
21 information to sexual assault victims; amending 21
22 O.S. 2011, Section 142A-3, as amended by Section 1,
23 Chapter 196, O.S.L. 2014 (21 O.S. Supp. 2020, Section
24 142A-3), which relates to the Oklahoma Victim's
Rights Act; updating language; providing additional
rights for sexual assault victims; providing for
codification; providing for noncodification; and
providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes, reads as follows:

1 Sections 1 through 8 of this act shall be known and may be cited
2 as the "Sexual Assault Victims' Right to Information Act".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 142C of Title 21, unless there
5 is created a duplication in numbering, reads as follows:

6 For the purposes of this act:

7 1. "Law enforcement officer" means any sheriff, police officer,
8 peace officer, tribal law enforcement officer, federal law
9 enforcement officer, campus police officer or any other law
10 enforcement officer who has been certified by the Council on Law
11 Enforcement Education and Training (CLEET) and whose duty it is to
12 enforce and preserve the public peace or any other first responder;

13 2. "Sexual assault forensic evidence" means any human
14 biological specimen collected by a medical provider during a
15 forensic medical examination from an alleged sexual assault victim
16 including, when circumstances indicate the need, a toxicology kit;

17 3. "Sexual assault victim" or "victim" means any person who is
18 a victim of a sexual assault defined under Section 142.20 of Title
19 21 of the Oklahoma Statutes. If the victim is incompetent, the term
20 shall include the parent, guardian, spouse or any other person
21 related to the incompetent victim by consanguinity or affinity to
22 the second degree or any other lawful representative of the
23 incompetent victim; and

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1 4. "Sexual assault victims' advocate" means any person who
2 serves as a victims' advocate for a state-certified or tribal sexual
3 assault or sex trafficking program or an advocate working in a
4 center that offers sexual assault services to minors who has
5 received formalized training through a government or tribal agency
6 in providing trauma-informed direct services to victims of sexual
7 assault.

8 SECTION 3. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 142C-1 of Title 21, unless there
10 is created a duplication in numbering, reads as follows:

11 In addition to rights enumerated in the Oklahoma Victim's Rights
12 Act, a sexual assault victim retains all the rights of this act
13 regardless of whether the victim agrees to participate in the
14 criminal justice system at any time and regardless of whether the
15 victim agrees to receive a forensic medical examination to collect
16 sexual assault forensic evidence.

17 SECTION 4. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 142C-2 of Title 21, unless there
19 is created a duplication in numbering, reads as follows:

20 A sexual assault victim has the right to speak with, either in
21 person, virtually, via audio and visual communication or
22 telephonically, a sexual assault victims' advocate before the
23 commencement of any forensic medical examination. When a sexual
24 assault victims' advocate has been requested, but is not available

1 in person, every effort shall be made to allow the sexual assault
2 victim to speak with a sexual assault victims' advocate either
3 virtually, via audio and visual communication or through telephonic
4 means.

5 SECTION 5. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 142C-3 of Title 21, unless there
7 is created a duplication in numbering, reads as follows:

8 A. A law enforcement officer or district attorney shall allow a
9 sexual assault victims' advocate to be present during any interview
10 with the sexual assault victim.

11 B. No person, for any reason, shall discourage a sexual assault
12 victim from receiving a forensic medical examination or discourage
13 the sexual assault victim from reporting the sexual assault to the
14 proper authorities.

15 SECTION 6. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 142C-4 of Title 21, unless there
17 is created a duplication in numbering, reads as follows:

18 No sexual assault forensic evidence shall be used:

19 1. To prosecute a sexual assault victim for any misdemeanor
20 crimes; or

21 2. As a basis to search for further evidence of any unrelated
22 misdemeanor crimes that may have been committed by the sexual
23 assault victim.

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1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 142C-5 of Title 21, unless there
3 is created a duplication in numbering, reads as follows:

4 Upon initial interaction with a sexual assault victim, a law
5 enforcement officer or medical provider shall provide the victim
6 with victims' rights information pursuant to subsection C of Section
7 142A-3 of Title 21 of the Oklahoma Statutes.

8 SECTION 8. AMENDATORY 21 O.S. 2011, Section 142A-3, as
9 amended by Section 1, Chapter 196, O.S.L. 2014 (21 O.S. Supp. 2020,
10 Section 142A-3), is amended to read as follows:

11 Section 142A-3. A. Upon the preliminary investigation of a
12 violent crime, it shall be the duty of the peace officer who
13 interviews the victim of such crime to inform the victim, or a
14 responsible adult if the victim is a minor child or an incompetent
15 person, or the family member who receives death notification in the
16 case of a homicide, in writing, of their rights as a crime victim.
17 Written notification shall consist of handing the victim,
18 responsible adult, if the victim is a minor child or an incompetent
19 person, or family member receiving death notification, a preprinted
20 card or brochure that, at a minimum, includes the following
21 information:

22 1. A statement that reads, "As a victim of crime, you have
23 certain rights";

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1 2. Telephone and address information for the local District
2 Attorney Victim-Witness Coordinator; and

3 3. The website address where victims can access a full list of
4 their rights, additional information, and how to apply for crime
5 victim compensation assistance.

6 B. A victim of domestic abuse has the right to be informed by
7 the first peace officer who interviews the victim of domestic abuse
8 of the twenty-four-hour statewide telephone communication service
9 established by Section 18p-5 of Title 74 of the Oklahoma Statutes
10 and to give notice to the victim of certain rights. The notice
11 shall consist of handing such victim the following statement:

12 "As a victim of domestic abuse, you have certain rights. These
13 rights are as follows:

14 1. The right to request that charges be pressed against your
15 assailant;

16 2. The right to request protection from any harm or threat of
17 harm arising out of your cooperation with law enforcement and
18 prosecution efforts as far as facilities are available and to be
19 provided with information on the level of protection available;

20 3. The right to be informed of financial assistance and other
21 social services available as a result of being a victim, including
22 information on how to apply for the assistance and services; and
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1 4. The right to file a petition for a protective order or, when
2 the domestic abuse occurs when the court is not open for business,
3 to request an emergency temporary protective order."

4 C. The victim of ~~rape or forcible sodomy~~ sexual assault, as
5 defined in Section 142.20 of this title, has the right to be
6 informed by the peace officer who interviews the victim of ~~the rape~~
7 ~~or forcible sodomy~~ sexual assault, or a responsible adult if the
8 victim is a minor child or an incompetent person, of the twenty-
9 four-hour statewide telephone communication service established by
10 the Office of the Attorney General for victims of sexual assault
11 pursuant to Section 18p-5 of Title 74 of the Oklahoma Statutes and
12 to give notice to the victim or such responsible adult of certain
13 rights of the victim. The notice shall consist of handing such
14 victim or responsible adult a written statement in substantially the
15 following form:

16 "As a victim of ~~the crime of rape or forcible sodomy~~ sexual
17 assault, you have certain rights. These rights are as follows:

18 1. The right to request that charges be pressed against your
19 assailant;

20 2. The right to request protection from any harm or threat of
21 harm arising out of your cooperation with law enforcement and
22 prosecution efforts as far as facilities are available and to be
23 provided with information on the level of protection available;

1 3. The right to be informed of financial assistance and other
2 social services available to victims, including information on how
3 to apply for the assistance and services;

4 4. The right to a free forensic medical examination; ~~and~~

5 5. The right to be informed by the district attorney of other
6 victim's rights available pursuant to Section 142A-2 of Title 21 of
7 the Oklahoma Statutes;

8 6. The right to speak with a sexual assault victims' advocate;

9 7. The right to request and receive the status and results of
10 the analysis of the sexual assault forensic evidence; and

11 8. The right to request a copy of the police report."

12 D. Upon the preliminary investigation of a domestic violence
13 crime involving intimate partner violence, the first peace officer
14 who interviews the victim of domestic abuse shall assess the
15 potential for danger by asking a series of questions provided on a
16 lethality assessment form. The lethality assessment form shall
17 include, but not be limited to, the following questions:

18 1. Has the person ever used a weapon against the victim or
19 threatened the victim with a weapon?

20 2. Has the person threatened to kill the victim or children of
21 the victim?

22 3. Does the victim think the person will try to kill the
23 victim?

24 4. Has the person ever tried to choke the victim?

1 5. Is the person violently or constantly jealous or does the
2 person control most of the daily activities of the victim?

3 6. Has the victim left or separated from the person after
4 living together or being married?

5 7. Is the person unemployed?

6 8. Has the person ever tried to kill himself or herself?

7 9. Does the victim have a child that the person knows is not
8 his or her own child?

9 10. Does the person follow or spy on the victim or leave the
10 victim threatening messages?

11 11. Is there anything else that worries the victim about his or
12 her safety and if so, what worries the victim?

13 Based upon the results of the lethality assessment, referrals to
14 shelters, domestic violence intervention programs and other social
15 services shall be provided to the victim.

16 SECTION 9. This act shall become effective November 1, 2021.

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